

Larry E. Craig, Chairman
Jade West, Staff Director

Legislative Notice

Editor, Judy Gorman Prinkey

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S. 522 – Taxpayer Browsing Protection Act

Calendar No. 37

Read the second time and placed on the calendar on April 9, 1997.

NOTEWORTHY

- S. 522 would criminalize file snooping by making it a violation to access a taxpayer's return or return information without proper authorization. Individuals caught snooping would be subject to a fine and up to one year in jail.
- At press time, a unanimous consent agreement was anticipated that would permit the Senate to begin debate on S. 522 following the Policy Luncheon today. Only one amendment offered by the bill's sponsors, Senators Coverdell, Glenn, and Roth, would be in order. The amendment would modify S. 522 to make it identical to H.R. 1226 as passed by the Ways and Means Committee.
- If the u.c. is accepted, total debate time on the bill and the amendment would be limited to 1 hour 45 minutes, after which time a vote on the bill would occur.
- H.R. 1226 is slated for House floor action today.

HIGHLIGHTS

- S. 522 would make it a crime for any federal employee or state employee (as well as certain IRS contractors) to access a taxpayer's return or return information without proper authorization. A violation would be punishable by a fine, or imprisonment of not more than one year, or both.

- This provision mirrors Title 18 of the U.S. Code [18 U.S.C. sec. 1030] enacted last year which provided criminal penalties for unlawful snooping into computer files. S. 522 would take the next step and apply the penalties of Title 18 to unlawful snooping of taxpayers' paper files.
- S. 522 also requires the IRS to notify taxpayers as soon as practicable of any unlawful disclosure if any person is "criminally charged by indictment or information with inspection or disclosure of a taxpayer's return."
- Finally, S. 522 provides for civil damages for unauthorized inspection of taxpayer files. A taxpayer may sue the government in U.S. District Court for civil, and in some cases, punitive damages. Currently, taxpayers may sue for civil damages if information is disclosed without proper authorization. S. 522 would apply current law to unauthorized inspections, as well as disclosure.

BACKGROUND

- According to a GAO report in a 1993-94 probe, 1,300 IRS employees were identified as suspected of "snooping" in confidential taxpayer files. The IRS responded that there would be "zero tolerance" for such snooping in the future.
- Yet a recent GAO report found that in 1994-95, there were 1,515 reported cases of IRS employee snooping, but only 23 employees were fired.
- An April 3, 1997, *Wall Street Journal* article reported the story of Richard W. Czubinski, a "contract representative" for the IRS who was convicted in December 1995 of 13 counts of wire and computer fraud but whose conviction was recently thrown out by the First U.S. Circuit Court of Appeals on grounds that "it wasn't a crime because the prosecution didn't prove that he had used the information or disclosed it to anybody."
- S. 522 would ensure that other "Mr. Czubinski's" would be held criminally liable merely for browsing through private taxpayer IRS records — regardless of whether any information is disclosed.

Staff Contact: Candi Wolff, 224-2946